

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

TIMOTHY E. ROBERTSON

CIVIL ACTION NO. 07-0529

VERSUS

JUDGE S. MAURICE HICKS, JR.

DETENTION CENTER CLAIBORNE
PARISH, ET AL.

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

Before the Court is the Report and Recommendation of the Magistrate Judge (Record Document 44), which recommended denial of Plaintiff's Motion for Summary Judgments and denial as moot of Defendants' Motion to Reset Response Date to Motion for Summary Judgment. Plaintiff has now filed Objections to the Report and Recommendation (Record Document 48) and a Motion to Alter or Amend Judgment under F.R.C.P. 59(e) (Record Document 49). In response, Defendants filed a Motion to Strike (Record Document 50), Response to Objections to Report and Recommendation (Record Document 52), and Memorandum in Opposition to Motion to Alter or Amend Judgment (Record Document 53).

At the outset, the Court **denies** the Plaintiff's Motion to Alter or Amend Judgment under F.R.C.P. 59(e) (Record Document 49). The motion is without merit, as the Magistrate Judge's Report and Recommendation is simply a recommendation to the district court and no judgment, as contemplated by Rule 59, has been entered.

The Court has also considered Plaintiff's written objections to the Report and Recommendation and Defendants' response thereto.¹ In support of his objections, Plaintiff

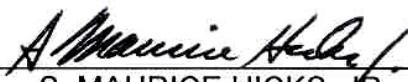
¹Defendants' "Response to Objection to Report and Recommendation" (Record Document 52) could easily be construed as a memorandum in opposition to Plaintiff's Motion for Summary Judgment.

has attached numerous exhibits, the majority of which are hearsay, unsworn, and/or documents containing conclusory statements. Such exhibits are not appropriate for consideration as part of the summary judgment record and are hereby stricken. See Martin v. John W. Stone Oil Distributor, Inc., 819 F.2d 547, 549 (5th Cir. 1987) (“Neither the district court nor this court may properly consider hearsay evidence in affidavits and depositions. Unsworn documents are also not appropriate for consideration.”). Yet, even if the Court were to consider the challenged exhibits, Plaintiff has still failed to present competent evidence of specific facts that would entitle him to judgment as a matter of law and the Court must deny his motion for summary judgment.

Accordingly, for the reasons assigned in the Report and Recommendation of the Magistrate Judge previously filed herein, and having thoroughly reviewed the record, including the written objections filed and the response thereto, and concurring with the findings of the Magistrate Judge under the applicable law;

IT IS ORDERED that Plaintiff’s Motion to Alter or Amend Judgment under F.R.C.P. 59(e) (Record Document 49) be and is hereby **DENIED**; Defendants’ Motion to Strike (Record Document 50) be and is hereby **GRANTED**; Plaintiff’s Motion for Summary Judgment (Record Document 39) be and is hereby **DENIED**; and Defendants’ Motion for Extension of Time (Record Document 43) be and is hereby **DENIED AS MOOT**.

THUS DONE AND SIGNED, at Shreveport, Louisiana, this the 17th day of November, 2008.



S. MAURICE HICKS, JR.
UNITED STATES DISTRICT JUDGE